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Apr 09 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County
Matie Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH HENRY EASTWOOD,

APPELLANT.

APPELLATE CASE NO. 2023-001798

MOTION FOR APPOINTMENT
OF OUTSIDE COUNSEL

Undersigned counsel respectfully moves this Court to appoint outside counsel to represent appellant in his direct appeal before this Court.

1. Appellant was indicted at the February 13, 2023 term of the Orangeburg County Grand Jury for the offense of murder. His case was called for trial on November 6, 2023 before the Honorable Maite Murphy, and a jury. Catherine Hunter, Thomas Scott and Mark Hines were the assistant solicitors. Retained counsel Ashley Cornwell represented appellant . Tr. 1.

2. On November 9, 2023, the jury found appellant guilty of murder. Tr. 663, ll. 12-19. Judge Murphy sentenced appellant to life imprisonment without parole. Tr. 669, ll. 12-14.

3. After the notice of intent to appeal was filed and served, appellant was found to be indigent by Chief Appellate Defender Robert M. Dudek, and eligible for representation by the Appellate Division of the South Carolina Commission on Indigent Defense (SCCID) following the submission of his affidavit of indigency.

4. On January 18, 2024 a virtual hearing was held before Judge Murphy on a Rule to Show Cause filed by appellant through his retained trial counsel, Ashley Cornwell, against SCCID. Trial counsel maintained SCCID should be ordered to pay for two expert witnesses she retained prior to appellant's trial. SCCID answered that trial counsel had not followed applicable statutes, court rules, Supreme Court orders and SCCID policies in the process of retaining these two trial experts, and therefore SCCID did not have the legal authority to reimburse trial counsel for these expert services.

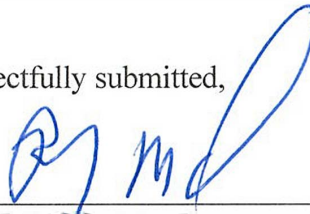
5. Judge Murphy issued an order denying trial counsel's Rule to Show Cause dated February 26, 2024. On March 7, 2024 trial counsel filed a motion to reconsider the denial of the Rule to Show Cause. Judge Murphy denied the motion to reconsider in an order dated March 25, 2024.

6. Trial counsel then filed a notice of intent to appeal on April 5, 2024 from Judge Murphy's order denying the Rule to Show Cause and Motion to Reconsider. A copy of that notice of intent to appeal is attached as Exhibit A to this motion.

7. Since the Appellate Division, which has approved appellant for representation on direct appeal before this Court, is a branch of SCCID undersigned counsel moves this Court to appoint outside counsel to avoid any potential appearance of a conflict of interest.

WHEREFORE, undersigned counsel respectfully requests the appointment of outside counsel to represent appellant in the direct appeal of his conviction before this Court. Undersigned counsel also requests that this Court hold the timelines for the filing of the initial brief and designation of matter on appeal by the Appellate Division in abeyance pending a ruling on this motion.

Respectfully submitted,



ROBERT M. DUDEK
CHIEF APPELLATE DEFENDER

ATTORNEY FOR APPELLANT

This 9th day of April, 2024

EXHIBIT

A

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Maite Murphy, Circuit Court Judge

Case Nos.: 2020-GS-38-0943

The State,

Respondent,

V.

Kenneth Henry Eastwood

Appellant.

NOTICE OF APPEAL

Kenneth Henry Eastwood appeals the Circuit Court's denial of his Petition for a Rule to Show Cause. The denial of Appellant's petition was ordered by the Honorable Maite Murphy, on February 28, 2024. Appellant filed a motion to reconsider on March 7, 2024. That motion was denied by the Honorable Maite Murphy on March 26, 2024. This appeal is taken as to the denial of the petition and pursuant to the statutes made and provided in the applicable provisions of the South Carolina Code of Law, 1976, as amended.

April 5, 2024

/s Ashley B. Cornwell

Ashley B. Cornwell

1470 Ben Sawyer Blvd., Suite 14

Mount Pleasant, SC 29464

843-595-6003

acornwell@cornwellfirm.com

Attorney for Appellant

Other Counsel of Record:

Hervery Young

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Columbia, SC 29211

803-734-1343

hyoung@sccid.sc.gov

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions

Maite Murphy, Circuit Court Judge

Case Nos.: 2020-GS-38-0943

The State,

Respondent,

V.

Kenneth Henry Eastwood

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Herverly Young, South Carolina Commission of Indigent Defense, by emailing a copy to him at hyoung@sccid.sc.gov on April 5, 2024.

April 5, 2024

/s Ashley B. Cornwell
Ashley B. Cornwell
1470 Ben Sawyer Blvd., Suite 14
Mount Pleasant, SC 29464
843-595-6003
acornwell@cornwellfirm.com
Attorney for Appellant

Other Counsel of Record:
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County

Matie Murphy, Circuit Court Judge

THE STATE,

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V.

KENNETH HENRY EASTWOOD,

APPELLANT.

APPELLATE CASE NO. 2023-001798

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Motion for Appointment of Outside Counsel in the above-referenced case has been served upon Ashley B. Cornwell, Esquire and Melody J. Brown, Esquire, at the primary e-mail addresses listed in the Attorney Information System (AIS) and Kenneth Henry Eastwood, #392480, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 9th day of April, 2024.



ROBERT M. DUDEK
CHIEF APPELLATE DEFENDER

ATTORNEY FOR APPELLANT

From: [Pollard, Shelby](#)
To: [Ashley Cornwell](#); [SC - BROWN MELODY](#)
Cc: [Dudek, Robert](#)
Subject: 2023-001798 The State v. Kenneth Eastwood - Motion for Appointment of Outside Counsel
Date: Tuesday, April 9, 2024 4:06:00 PM
Attachments: [2023-001798 - Kenneth Eastwood - Motion to Appoint Outside Counsel.pdf](#)

Good Afternoon,

Please find attached for service in the above-referenced case the Motion for Appointment of Outside Counsel. This motion will be filed today, April 9, 2024, with the Court of Appeals via email filing.

Respectfully,
Shelby

Shelby Pollard

Administrative Assistant
South Carolina Commission on Indigent Defense
Appellate Division
1330 Lady Street, Suite 401
PO Box 11589
Columbia, SC 29201-1589
(803) 734-1330 – Telephone
(803) 734-1397 - Fax



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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SC Court of Appeals

Division of Appellate Defense
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

April 9, 2024

The Honorable Jenny Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: The State v. Kenneth Henry Eastwood – Appellate Case No. 2023-001798

Dear Ms. Kitchings:

Attached is a Motion for the Appointment of Counsel from Outside of the Office of Appellate Defense to represent appellant in his direct appeal before this Court. Thank you for your assistance in this matter.

Sincerely,

Robert M. Dudek
Appellate Defender

Enclosure

cc: Mr. Kenneth Eastwood
Ashley B. Cornwell, Esquire
Melody J. Brown, Esquire